

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JOHN BALDWIN,

Defendant-Appellant.

UNPUBLISHED

March 18, 2003

No. 237802

Wayne Circuit Court

LC No. 00-013868

Before: O’Connell, P.J., and Fitzgerald and Murray, JJ.

MEMORANDUM.

Defendant was convicted by a jury of assault with intent to commit murder, MCL 750.83, and possession of a firearm during the commission of a felony, MCL 750.227b. He appeals as of right. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant’s convictions arose from an incident where he approached the complainant’s parked car, pulled a firearm from his waistband, and fired several shots toward the complainant. The complainant was shot twice, once in the back and once in the head.

On appeal, defendant argues that insufficient evidence was presented of his specific intent to commit murder. “When determining whether sufficient evidence has been presented to sustain a conviction, a court must view the evidence in a light most favorable to the prosecution and determine whether any rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt.” *People v Nowak*, 462 Mich 392, 399-400; 614 NW2d 78 (2000). Our review is deferential, drawing all reasonable inferences and making credibility choices in support of the jury’s verdict. *Id.* at 400.

To prove the crime of assault with intent to commit murder, the prosecution must establish: “(1) an assault, (2) with an actual intent to kill, (3) which, if successful, would make the killing murder.” *People v Hoffman*, 225 Mich App 103, 111; 570 NW2d 146 (1997). The trier of fact may draw reasonable inferences from any facts in evidence to assist in making the finding of an actual intention to kill. *Id.*

Here, defendant contends that an actual intent to kill could not be inferred from the evidence, noting that he did not make any verbal threat to the complainant, that the location of the bullet holes in the car indicated that the shots were meant to scare complainant, rather than to

kill him, and that the complainant's ability to drive despite being shot twice indicated that defendant did not fire at close range. We reject these arguments. Both the complainant and his passenger testified that they saw defendant next to the complainant's parked car and also saw defendant pull a gun from his waistband and begin firing at the car. Contrary to defendant's arguments, the evidence strongly indicated that defendant aimed his weapon directly at the complainant and fired several shots, two of which struck the complainant in the head and back. Viewing the evidence in a light most favorable to the prosecution, the jury could reasonably infer the specific intent necessary to support a conviction. *Id.*

Affirmed.

/s/ Peter D. O'Connell
/s/ E. Thomas Fitzgerald
/s/ Christopher M. Murray